



Appeal Decision

Site visit made on 22 February 2023

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 April 2023

Appeal Ref: APP/K2230/W/22/3297257

Greenacres Farm, Brimstone Hill, Meopham, Gravesend DA13 0BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Joann Hill against the decision of Gravesham Borough Council.
 - The application Ref 20211077, dated 25 August 2021, was refused by notice dated 10 November 2021.
 - The application sought planning permission for erection of a single storey front extension and change of use from holiday let to annex without complying with a condition attached to planning permission Ref 20151137, dated 12 July 2016.
 - The condition in dispute is No. 4 which states that: *The annex hereby permitted shall at all times be used for accommodation ancillary to the existing dwelling at Greenacres Farm, Brimstone Hill, Meopham and it shall not at any time be sold, parted, let or exchanged as a separate dwelling.*
 - The reason given for the condition is: *To protect the amenity of the area, prevent over intensification of the site and to protect the openness of the Green Belt in accordance with Policy CS02, Policy CS12, Policy CS19 of the Gravesham Local Plan: Core Strategy (September 2014).*
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Decision

1. The appeal is allowed and planning permission is granted for erection of a single storey front extension and change of use from holiday let to annex at Greenacres Farm, Brimstone Hill, Meopham, Gravesend DA13 0BN without compliance with condition number 4 previously imposed on planning permission Ref 20151137, dated 12 July 2016, but subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following plans approved under planning application reference 20151137: Nos PL-1601 Locality Plan; PL-1601/OS/A Site Plan; PL-1601/01/A Existing Plans and Elevations; PL-1601/02/A Proposed Plans and Elevations.
 - 2) All external facing materials used in the development hereby permitted shall match those of the existing dwelling.
 - 3) Vehicular and pedestrian access to the building hereby permitted shall at all times be from the existing vehicular and pedestrian access to Greenacres Farm, Brimstone Hill, Meopham.
 - 4) No external lighting shall be erected or placed within the rear garden area or on the building hereby permitted without the prior written permission of the Local Planning Authority having first been obtained.

Preliminary Matters

2. It has been clarified during the appeal that the appeal site is not within 6kms of the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site. The Council has confirmed that refusal ground number 4 of the planning application subject to this appeal¹ was added in error and should be disregarded. I have determined the appeal on this basis.

Background and Main Issues

3. Planning permission² for the erection of a single storey front extension and change of use from a holiday let to an annex included a condition (condition 4) that required the annex to, at all times, be used for accommodation ancillary to the host dwelling known as Greenacres Farm, and to not permit the annex to be sold, parted, let or exchanged as a separate dwelling.
4. The removal of condition 4 would allow the occupation of the existing annex in an uncontrolled way under Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) by virtue of section 55(2)(f) of the Town and Country Planning Act 1990. I therefore need to determine whether the potential use of the annex as an independent Class C3 dwellinghouse (hereon referred to as the proposal) would be contrary to the development plan.
5. Although not specifically referred to as a reason for refusal, the Council in their Officer's Report refer to an independent dwelling in this location being an isolated home in the countryside and consider future residents of the proposed dwelling would be likely to rely on private car(s) to reach essential services and facilities.
6. Therefore, the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, including the effect on the openness of the Green Belt.
 - whether the location is suitable for the proposal having particular regard to the aims of the Framework and the accessibility of services and facilities;
 - whether the proposal would provide satisfactory living conditions for future occupants having particular regard to the amount of external garden space;
 - the effect the proposal would have on:
 - the landscape and scenic beauty of the Kent Downs Area of Outstanding Natural Beauty and Harvel Wooded Downs Landscape Character Area; and
 - highway safety; and

if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

¹ Planning Application Reference: 20211077

² Planning Application Reference: 20151137

Whether inappropriate development, including effect on openness

7. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. Policy CS02 of the Gravesham Local Plan Core Strategy (2014) (Core Strategy) complies with this approach by supporting development in rural areas, outside of rural settlements inset from the Green Belt, where it is compatible with national policies for protecting the Green Belt and policies in the plan.
9. Paragraph 150 of the Framework sets out that the re-use of buildings, which are of permanent and substantial construction, is not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
10. The proposal would re-use the annex building which is of permanent and substantial construction. It would therefore not be inappropriate development provided it would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it.
11. The annex has three bedrooms and is currently occupied by a family member of the applicant, their partner, and their children. There is no substantive evidence before me that using the annex as an independent dwelling would result in the intensification of this use. Even if it was to change ownership, the amount of accommodation would not increase and, given the modest size of the existing accommodation and that it is currently occupied by a family, it would be unlikely that a more intensive use of the accommodation would occur.
12. I saw on my visit that some external space to the south-west of the annex provides a garden for the occupants of the annex. This space relates well to the annex and is already separated from the host dwelling and its rear and front gardens by the shared access drive and boundary hedging associated with the host dwelling. No additional physical subdivision of the plot from the host dwelling has been proposed.
13. The garden contains residential paraphernalia associated with the occupants of the annex, such as an outdoor table and chairs, flowerpots, a barbeque, swimming pool and children's toys. Taking this into account, in this case, it is not clear why the proposal would lead to additional residential paraphernalia above what is already present or could be provided on the site in its current use as an annex.
14. Accordingly, for the reasons above, the proposal would be unlikely to result in an intensification of the residential use of the site or an increase in residential paraphernalia to a degree that would adversely impact on the openness of the Green Belt either spatially or visually. Thus, it would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. Given this, it would not constitute inappropriate development in the Green Belt and would comply with Policy CS02 of the Core Strategy and the aims of the Framework in this regard.

Suitability of Location

15. The appeal site is located at the top of Brimstone Hill, a short distance from houses forming ribbon development that extends from Wrotham Road, the main road running through Meopham, along Foxendown Lane. There are a range of services and facilities within walking and cycling distance further north on Meopham Road. There is also bus stops on Meopham Road providing services to Rochester and Sevenoaks, as well as the services and facilities in Meopham and Meopham Station.
16. Brimstone Hill and Foxendown Lane are narrow country lanes with no formal pavements or lighting. However, both the frequency and speed of vehicles are low, and I saw on my visit that the route was being used by both pedestrians and cyclists. While the route may not be attractive in bad weather or after dark, it nevertheless is not unpleasant and provides access to the bus stops on Meopham Road and local services and facilities further north.
17. Opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Therefore, although the occupants of the proposed dwellings would undoubtedly make use of the private car to access facilities needed on a day-to-day basis, there are opportunities for the use of sustainable means of transport. For these reasons I find that there would be a reasonable degree of accessibility from the site to services and facilities by means other than the car. Moreover, the proposal would support these services and enhance vitality of the rural community in line with paragraph 79 of the Framework.
18. While the area surrounding the appeal site is rural in character, there are other properties along Brimstone Hill, some very close to the appeal site. Also, the resulting independent dwelling would be adjacent to the host dwelling. Given this, and my conclusions above regarding accessibility, the proposal would not result in an isolated home in the countryside with regards to paragraph 80 of the Framework.
19. For the reasons above, future occupants of the proposal would not be reliant on private car(s) to reach services and facilities and the proposal would not result in an isolated home in the countryside. The proposal would accord with the aims of paragraph 79 of the Framework and the circumstances set out at Paragraph 80 would not be relevant in this case. Moreover, the Council does not refer to conflict with any specific development plan policies in this regard.

Landscape and Scenic Beauty

20. While the annex building and its associated external space are set well back from the public highway, the rear of the site is open and there is a large degree of intervisibility between it and the Kent Downs Area of Outstanding Natural Beauty (AONB) and Harvel Wooded Downs Landscape Character Area (LCA).
21. Nonetheless, as concluded above, no additional physical subdivision of the plot has been proposed and it is unlikely that a more intensive use of the accommodation would occur. Also, there is already a range of residential paraphernalia associated with the annex within the surrounding external space. For these reasons, the proposal would have a very limited effect on the character and appearance of the appeal site and thus a very limited effect on the special landscape characteristics and qualities of the surrounding

landscape, AONB and LCA. Furthermore, there are houses close to the appeal site that are located behind other properties away from the highway, therefore the proposal would be in keeping with the existing pattern of development.

22. Notwithstanding this, given the slope of the land, the annex building and its associated external space have a much larger degree of intervisibility with the surrounding landscape than the host dwelling. I therefore appreciate the Council's concern regarding the effect of any further permanent extensions, curtilage buildings and fencing resulting from permitted development rights. However, while it may be that an additional separate dwelling on the site would increase the likelihood of further permitted development rights being implemented, there is nothing before me to suggest that the host dwelling does not already benefit from these rights.
23. In any case, the current cluster of buildings integrate well into their landscape setting and, given the Town and Country Planning (General Permitted Development Order) (England) Order 2015 (GDPO) limits the size of permitted development within the AONB, any further permitted development would be modest and would appear as part of the existing cluster.
24. Accordingly, the proposal would conserve the landscape and scenic beauty of the AONB and LCA. I recognise that it would not fully accord with Policy CS12 of the Core Strategy and the aims of the Framework, which seek to also enhance these valued landscapes. However, the proposal would not result in any harm to the AONB or LCA and therefore would not conflict with the fundamental aims of the development plan or Framework. Given it relates to the removal of a condition and would not involve any tangible changes to the built form, the opportunity for enhancement is limited and its absence would not be a reason to dismiss this appeal. The proposal would accord with the aims of the Framework that seeks to ensure development are sympathetic to local character including the landscape setting and that the quality of the approved development is not diminished between permission and completion.

Living conditions

25. The external space currently being utilised by the occupants of the annex as a garden is relatively large. Whether or not it would meet the minimum garden area of 60m² required for a three-bedroom houses by the Council's Residential Layout Guidelines Supplementary Planning Guidance 2 (February 1996, amended June 2020), there is sufficient space for sitting out and dining, clothes drying, playing, and swimming, as well as storage, if needed. It is separate from the large front and rear gardens that serve the host dwelling and there is very limited intervisibility between the garden spaces due to the topography of the site and the position of the existing buildings that largely screen it. For these reasons, the proposal provides adequate external garden space and would not result in a poor living environment for future occupants. It would accord with Policy CS19 of the Core Strategy, which seeks, amongst other things, for new development to provide appropriate levels of private amenity space. It would also accord with the aims of the Framework to create places with a high standard of amenity for future users.

Highway Safety

26. There is currently a shared driveway that provides access to the host dwelling as well as the existing annex, and there is no substantive evidence before me

that this would not continue to provide adequate access to a separate dwelling. I recognise that the Council has concerns regarding an intensification in the residential use of the annex if it were to be used as a separate dwelling. However, given my conclusions above regarding this, any impact on the highway as a result of the proposal would be negligible and unlikely to result in the intensification of use of the existing access.

27. The exact number and location of parking spaces that would be available to each dwelling has not been explicitly demonstrated. Nevertheless, there is sufficient space on site to provide two dedicated parking spaces for the proposal that would be separate from the existing parking area that serves the host dwelling, as well as a communal visitor space. There is also enough room for cars to manoeuvre so that they can exit the site in a forward gear.
28. Moreover, paragraph 111 of the Framework is clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
29. Accordingly, for the reasons above, the proposal would not compromise highway safety. It would accord with saved policies T1 and T5 of the Gravesham Local Plan First Review (1994) and Policy CS11 of the Gravesham Core Strategy. These seek to protect highway safety by, amongst other things, ensuring new development is adequately served by the highway network, accesses are an acceptable standard and sufficient parking is provided.

Other Matters

30. The Council have brought to my attention that there is a Deed of Modification attached to planning permission, Ref 20151137, which covenants the owners not to sell, part with, let or exchange part or whole of the outbuilding as a separate dwelling from the main dwelling. This deed modified a previous obligation attached to planning permission, Ref GR/02/0084, not to use the building for any other purpose than for short term lettings as a holiday cottage. If the appeal was to be allowed and planning permission granted without the disputed condition, it would be necessary to further modify the planning obligation.
31. However, whether or not the existing planning obligation subject to the Deed of Modification would restrict any permission I grant as part of the appeal, my decision is confined to the planning merits, and this is for the parties to resolve outside of the appeal process.
32. While I note the Council's concerns regarding access to the utilities that serve the annex, this would also be for the relevant parties to resolve outside the appeal process.
33. Third parties have also referred to a possible increase in the value of the appellant's property as a result of the proposal. Whether or not this would be the case, this is a purely private interest and not a consideration that I have given any weight to.

Conditions

34. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions

imposed on earlier permissions that continue to have effect. I have therefore imposed all those that the Council have suggested remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

35. In addition to the conditions imposed on the earlier permission³, the Council have also suggested that a condition is added to remove permitted development rights relating to gates, fences and other means of enclosure. However, taking into account paragraph 54 of the Framework and given that I have found that the proposal would conserve the landscape and scenic beauty of the AONB and LCA, there is no clear justification to do so. This condition is therefore neither necessary nor reasonable.

Conclusion

36. For the reasons above, considering the development plan as a whole and all relevant material considerations, I conclude that the appeal should be allowed. I therefore grant a new planning permission without the disputed condition but retaining those non-disputed conditions from the previous permission³ that appear to still be relevant.

Hannah Guest

INSPECTOR

³ Planning Application Reference: 20151137